

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 889 of 1997

Date of decision: 28-9-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
MINOR PARVATI NATHUBHAI LOCHA

Versus

DHANJI MANJI VEKARIYA  
-----

Appearance:

MR MEHUL SHAH for Petitioner  
MR SUNIL B PARIKH for Respondent No. 3  
-----

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/09/98

ORAL JUDGEMENT

Heard the learned counsel for the parties and perused the judgment and award of the Motor Accident Claims Tribunal (Auxillary -1), Bhuj - Kutchch passed in Motor Accident claims Petition No.571 of 1991, decided on 5th December, 1996.

2. The claimant appellant sustained injury in motor vehicular accident and she filed claim application in which prayer for award of compensation of Rs.25,000/-is made. As against this claim the Tribunal awarded Rs.7500/- as compensation to her. Hence this appeal before this Court.

3. Learned counsel for the appellant contended that despite the fact that permanent partial disability to the extent of 12% of the body of the appellant was found by the Tribunal as a result of this motor vehicular accident, still it has not awarded any amount under the head 'future loss of income'. From the record of the Tribunal I find that the claimant- appellant sustained multiple injuries including compound fracture in left leg due to the accident which occurred on 28-11-1990.

4. Learned counsel for the respondent is unable to show any justification on the part of the Tribunal in not awarding anything towards future loss of income to the appellant. Whether partial permanent disability to the extent of 12% was taken of the body as a whole or otherwise is not clear, but if it is taken to be functional disability then certainly 50% thereof could have been taken disability of the body as a whole. On the basis of this disability also, total amount of Rs.25,000/- as claimed could not have been said to be towards higher side. This claim of the claimant-appellant was just, adequate and reasonable and it should have been granted in toto. As against that the Tribunal has felt contended by awarding only Rs.7500/-. Out of Rs.7500/- I find that Rs.5000/- has been awarded under the head 'pain, shock and suffering' and Rs.1500/-towards medical expenses and special diet. Rs.1000/-has been awarded towards attendant charges.

5. Taking into consideration totality of the facts and circumstances of this case, I consider it proper to award lump sum of Rs.17,500/- under the head of future economic loss to the claimant. The respondents shall be jointly and severally liable for payment of the amount of additional compensation to the claimant -appellant. She shall be further entitled to interest on this amount of

additional compensation at the rate of 12% per annum from the date of application till realisation thereof, and the respondents shall be jointly and severally liable for payment of this amount of interest also. The appeal is accordingly allowed.

.....

csm